

Appl. No. 11/016,521
Atty. Docket No. 9548
Response dated August 8, 2006
Reply to Office Action of May 10, 2006
Customer No. 27752

REMARKS

Applicants acknowledge the withdrawal of the 35 USC §112, second paragraph, rejections over the claims.

No amendments to the claims have been made.

Claims 1, 2, 4, 6, 10-14, 16, 17, 19, 21, 22 and 25-30 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §102(b)/§103(a) over U.S. Patent No. 4,637,859

Claims 1, 2, 4, 6, 10-12, 16, 17, 19, 21, 22, 25-27 and 30 are rejected by the Examiner under 35 USC §102(b) as allegedly being anticipated by or, in the alternative, under 35 USC §103(a) as allegedly defining obvious subject matter over U.S. Patent No. 4,637,859 to Trokhan ("Trokhan"). The Examiner asserts that Trokhan discloses a tissue product having a basis weight of 9-95 gsm, wherein the tissue comprises an undulating surface of low density pillow regions and high density knuckle regions. The Examiner states that since Trokhan appears to disclose the identical structure but does not explicitly recite the claimed properties, the burden is shifted to Applicants to show that Trokhan's tissue products do not possess the claimed properties.

Applicants respectfully disagree with the Examiner's conclusion. Applicants respectfully submit that Trokhan fails to teach each and every element of Claims 1 and 16, the independent claims. Applicants submit that Trokhan at least fails to teach that its tissue products exhibit a structural aspect of ratio of greater than 1.5. In fact, Applicants submit that Trokhan explicitly teaches away from tissue products that exhibit a structural aspect ratio of greater than 1.5. Trokhan, Col. 8, lines 28-36. Further, Applicants submit that Trokhan teaches in its Fig. 10 that its tissue products exhibit a structural aspect ratio of 1.28, which is determined by the formula dimension f/dimension e. Accordingly, Applicants submit that Claim 1 is not anticipated by nor rendered obvious over Trokhan. Further, Applicants submit that Claims 2, 4, 6, and 10-12, which ultimately depend from Claim 1, are not anticipated by nor rendered obvious over Trokhan for the same reasons that Claim 1 is not anticipated by nor rendered obvious over Trokhan.

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With respect to Claim 16, Applicants respectfully submit that Trokhan at least fails to teach that its tissue products exhibit maximum stretch of less than 15%. Applicants submit that Trokhan teaches that its tissue products exhibit a maximum stretch of greater than 15%; namely, 30%, 34%, 35%, 32%. Trokhan, Col. 22, Table II. Accordingly, Applicants submit that Claim 16 is not anticipated by nor rendered obvious over Trokhan. Further Applicants submit that Claims 17, 19, 21, 22, 25-27 and 30, which ultimately depend from Claim 16, are not anticipated by nor rendered obvious over Trokhan for the same reasons that Claim 16 is not anticipated by nor rendered obvious over Trokhan.

Rejection Under 35 USC §103(a) over U.S. Patent No. 4,637,859
in view of U.S. Patent No. 6,328,850

Claims 13, 14, 28 and 29 are rejected by the Examiner under 35 USC §103(a) as allegedly defining obvious subject matter over Trokhan, discussed above, in view of U.S. Patent No. 6,328,850 to Phan et al. ("Phan"). The Examiner recognizes that Trokhan fails to disclose a tissue having a layer containing fibers having an average fiber length of greater than 1.5 mm, which is positioned between two layers containing fibers having an average fiber length of less than 1.5 mm. The Examiner asserts that Phan discloses a multi-layered paper product wherein an inner layer may comprise relatively long fibers having a length of 2.5 mm or greater which is sandwiched by outer layers comprising fibers having a length of less than 1.5 mm. Accordingly, the Examiner concludes that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the paper sheet of Trokhan so that it had fibrous layers having fiber lengths taught by Phan, motivated by the expectation that this would produce a tissue having excellent softness, strength and bulk.

Applicants respectfully disagree with the Examiner's conclusion. Applicants respectfully submit that Trokhan fails to teach each and every element of Claims 1 and 16, the independent claims from which Claims 13-14 and 28-29 ultimately depend, respectively, for the reasons described above. Further, Applicants submit that Phan fails to overcome the deficiencies of Trokhan. Therefore, Applicants respectfully submit that

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Claims 13, 14, 28 and 29 are not rendered obvious over Trokhan, alone or in combination with Phan. MPEP 2143.03.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC §102(b) and 35 USC §103(a). Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application and allowance of Claims 1, 2, 4, 6, 10-14, 16, 17, 19, 21, 22 and 25-30 is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 

C. Brant Cook
Registration No. 39,151
(513) 634-1533

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